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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,931

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

PETERSON, KENNETH E

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

11/15/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,931

Applicant(s)

VAN DER MEER, MATTHEUS
JACOBUS

Examiner

Kenneth Peterson

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3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 nov 10.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2010 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The amendment filed 21 Oct 10 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The changes made to figure 5a are new matter.

The material removed from the specification is new matter.

Examiner notes that that new matter may exist by virtue of the omission of a feature or of a step in a method. See *United States Industrial Chemicals, Inc. v. Carbide & Carbon Chemicals Corp.*, 315 U.S. 668, 53 USPQ 6 (1942).

In this case, the omission of the crossing wires in figures 5a, and the omission of the description how figures 5a and 5b work constitutes new matter because the device must now work in some fashion not previously set forth nor obvious to the Examiner.

Applicant is required to cancel the new matter in the reply to this Office Action.

2. Claims 1,3 and 5-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The device, as seen in the original figure 5a and described on pages 4 and 5 of the specification, is non-functional. The trimming function, seen in figure 5b, works fine, but when electrical contacts 36 are slid down in figure 5a, they short out the power

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supply. It is easy to see that electricity leaving the power supply in figure 5a via wire 33 will proceed along the diagonal wire, then down the left switch 36, down the wire 32 and right back to the opposite pole of the power supply. This situation can quickly lead to fire or at the very least significant overheating.

Also, the device described in the currently modified figure 5a and currently modified specification are unclear in their workings, Where do the central cross wires disappear to when shifting from figure 5b to 5a?

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 1, 3, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Futterer et al. (3,213,536) in view of Ullmann et al. (5,701,673).

Futterer shows a razor with most of the recited limitations including;

A cutter (16),

A trimmer (15),

A drive (27),

Means for reversing (lines 4-14, column 2) the drive structure such that the trimmer is removed from the drive structure,

A unidirectional clutch (9).

Futterer's trimmer has only one position. However, these days it is ubiquitous to have the trimmer pop out from the razor such that the trimmer starts only when popped out. An example of this is Ullmann (see figures 2a,3a,4a,5a). Ullmann shows an operational member (4) with switching circuitry (45,47,48). Ullmann's trimmer only has a cutting action when popped out, by way of engaging drives 10 and 11 only when popped out. It would have been obvious to one of ordinary skill in the art to have modified Futterer by placing his trimmer on a pop-out arm such that the trimmer starts only when popped out, as taught by Ullmann and many others, in order to have a trimmer that can reach hard-to-reach places such as ears and under the chin. Since Ullmann teaches popping out the trimmer via actuation of the operational member electrical mode switch, the ability to pop out the trimmer on Futterer would also occur via the operational member electrical mode switch (his motor reverse switch), and thus the reversing of the motor would occur in response the popping out of the trimmer.

In regards to claim 3, Futterer has a switching circuitry (28).

In regards to claim 5, Futterer's trimmer drive "branches off" at a shaft (1, see figures 1-3).

5. Claims 1,3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Futterer et al.(3,213,536) in view of Ullmann et al.(5,701,673), as set forth above, and further in view of in view of Bergsma (US 4,355,464).

In regards to at least claims 6 and 8, the modified apparatus of Futterer still does not disclose the shaver wherein the number of cycles per unit of time of the driven

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trimmer is higher than said number of revolutions per unit time of the at least one driven cutter. Bergsma discloses a shaving apparatus a plurality of rotary shaving elements (2, 4) and a trimmer (21). The trimmer and the plurality of rotary shaving elements are both driven by a motor (6) and a gear system (see figures 1 and 2) such that the frequency of the trimmer and the RPMs of the rotary cutter can be selected independently (see column 2 lines 27-32). Further, Bergsma discloses that it is preferable to have the rotary shaving element be driven at a lower number of RPMs than the frequency of the trimmer so as to reduce wear, friction, heat, and noise (see column 1 lines 24-27). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the shaver of Futterer to have the number of cycles per unit of time of the driven trimmer be higher than said number of revolutions per unit time of the at least one driven cutter in view of the teachings of Bergsma in order to reduce wear, friction, heat, and noise.

6. Applicant's arguments have been fully considered but they are not persuasive.

In regards to the new matter situation, Applicant argues that since Futterer shows a reversing switch, amending his reversing switch should not be considered new matter.

As per the MPEP, *An amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of the error in the specification, but also recognize the appropriate correction. In re Oda, 443 F.2d 1200, 170 USPQ 268 (CCPA 1971).*

In this case, we are in agreement that one of ordinary skill would recognize the error. However, Examiner deems that one of ordinary skill in the art would *not* recognize the appropriate correction *within the context of the remaining subject matter*. For example, how would one make the cross wires disappear when shifting between figures 5b and 5a?

In regards to the rejection under 35 USC 103, applicant argues that neither Futterer nor Ullman has a reversing switch that causes the trimmer to move to from a retracted position to a operational position. Examiner agrees this is true, and that is why it is a 103 rejection and not a 102b rejection. As discussed previously, Futterer teaches a 3 function reversing switch (off, shaver, trimmer, see paragraph spanning columns 3 and 4). Ullmann teaches having his 3 function switch (off, shaver, trimmer) be the operational member to move the trimmer from the retracted position to the operational position. Applying Ullmann's teachings to Futterer yields the claimed subject matter, as discussed above. The fact that Ullmann's teachings are being applied to a slightly different type of switch would certainly not prohibit one of ordinary skill in the art from making the modification.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Peterson whose telephone number is (571)272-4512. The examiner can normally be reached on Monday-Thursday, 7:30AM-5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth Peterson/
Primary Examiner, Art Unit 3724